

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

CONTINENTAL COMPUTER
COMPANY

Plaintiff

VS.

ROBERT KAGENSKI,
REVENALDO "CHITO" MARTINEZ,
and ROBERT "ROBBIE" MARTINEZ

Defendants

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NO: 3:04CV00235 SWW

ORDER

Before the Court is (1) Defendant Martinez's motion to dismiss (docket entry #60), and Plaintiff's response (docket entry #65); (2) Martinez's motion to compel (docket entry #63) and Plaintiff's response (docket entry #66); and (3) Martinez's unopposed motion to extend the discovery deadline (docket entry #62). For the reasons stated below, the motion to dismiss will be denied, and the motion to compel and motion to extend the discovery deadline will be denied as moot. Additionally, the parties are ordered to inform the Court whether this case has settled.

In support of his motion to dismiss, Martinez states that Plaintiff offered to dismiss this case in exchange for his deposition testimony. Martinez states that Plaintiff deposed him on

December 9, 2005, but has failed to dismiss this case.

In its response to the motion to dismiss, Plaintiff states that Martinez's conduct in deposition made settlement impossible. However, after filing its response, Plaintiff filed a document entitled Settlement Agreement and Mutual General Release, which is signed by the parties. Paragraph 5 of the agreement provides, "Upon the receipt by Continental of an executed copy of this Agreement . . . Continental will deliver to Reyinaldo Martinez an executed copy of this Agreement and will dismiss the action *Continental Computer Corporation v. Reyinaldo Martinez, et al*, no. 3:04CV00235 SWW." Docket entry #58, ¶ 5.

The Court finds that Martinez presents no basis for dismissing this lawsuit. However, in light of the "settlement agreement" filed by Plaintiff, the Court directs the parties to inform the Court, within 15 days from the entry of this order, whether this case has in fact been settled.

Martinez filed a motion to compel disclosures required under Fed. R. Civ. P. 26(a), and an unopposed motion for an extension of the discovery deadline. Plaintiff responds that it has provided Martinez the information sought in his motion to compel. Accordingly, the motion to compel will be denied as moot. As for Martinez's motion for an extension of the discovery deadline, the Court's scheduling order (docket entry #17) provides that the parties may conduct discovery beyond the discovery deadline established by the Court if all parties are in agreement to do so.

IT IS THEREFORE ORDERED that Defendant Martinez's motion to dismiss (docket entry #60) is DENIED.

IT IS FURTHER ORDERED that Defendant Martinez's motion to compel (docket entry #63) is DENIED AS MOOT.

IT IS FURTHER ORDERED that Defendant Martinez's motion for an extension of the discovery deadline (docket entry #62) is DENIED AS MOOT.

IT IS FURTHER ORDERED that **the parties are directed to inform the Court, within fifteen days from the entry date of this order, whether this case has been settled.**

IT IS SO ORDERED THIS 1ST DAY OF MAY, 2006.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE